
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

MICHAEL WARREN COX, JR., #20960-078 §

versus §

UNITED STATES OF AMERICA §

§ CIVIL ACTION NO. 4:18-CV-237

§ CRIMINAL ACTION NO. 4:13-CR-45(01)

§

ORDER OF DISMISSAL

The above-styled and numbered civil action was referred to United States Magistrate Judge Kimberly C. Priest Johnson, who issued a Report and Recommendation concluding that Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 should be denied. Movant has filed objections.

Movant alleges that he is entitled to relief because his plea of guilty was not entered knowingly, intelligently and voluntarily due to ineffective assistance of counsel. At the time Movant pled guilty, he advised the Court that he was pleading knowingly, freely and voluntarily upon the advice of counsel. His "solemn declarations in open court carry a strong presumption of verity." *United States v. Lampazianie*, 251 F.3d 519, 524 (5th Cir. 2001) (quoting *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977)). He has not provided evidence to overcome the presumption. Furthermore, with respect to his ineffective assistance of counsel claim, he has not shown that his attorney's representation was deficient or that he was prejudiced by deficient representation, as required by *Strickland v. Washington*, 466 U.S. 668, 688 (1984).

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Movant to the Report, the Court concludes that

the findings and conclusions of the Magistrate Judge are correct and the objections of Movant are without merit.

It is accordingly **ORDERED** that the Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 is **DENIED**, and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled upon are **DENIED**.

Signed this date

Aug 16, 2019

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE